

Serial No. 09/855,194

Docket No.: KCC-15,893

REMARKS

Applicant's undersigned attorney thanks the Examiner for her comments. Applicant respectfully requests reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-28 are pending.

Amendment to the Claims

Claims 1-28 have been examined, with no claims being allowed. Applicant has amended Claims 1, 13, 18, 19, 21-23 and 28, and canceled Claims 17 and 20.

Claims 1 and 28 have been amended to include the limitations of Claims 17 and 20. Therefore, Applicant requests cancellation of Claims 17 and 20.

Claim 13 has been amended to include a comma between the terms "face masks" and "laboratory coats."

Claims 18, 19, and 21-23 have been amended to depend from Claim 1 rather than from Claim 17.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims has been reduced.

Claim Rejections - 35 USC §102

The rejection of Claims 1-3, 7-14, 17, 21, 27, and 28 under 35 U.S.C. §102(b) as being anticipated by Rosch et al. (U.S. Patent 5,790,983) is respectfully traversed.

Rosch et al. disclose an elasticized garment. For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. Rosch et al. do not disclose each and every element or limitation of amended Claims 1 and 28.

Applicant's invention as recited in amended independent Claims 1 and 28 requires multiple strands of elastomeric material secured to an elastomeric film wherein at least two of the elastomeric strands have compositions that differ from one

Serial No. 09/855,194

Docket No.: KCC-15,893

another. Rosch et al. fail to disclose two or more elastomeric strands having different compositions.

For at least the reasons presented above, Applicant respectfully submits that amended Claims 1 and 28 are not anticipated by Rosch et al. Because Claims 2, 3, 7-14, 21, and 27 depend from amended Claim 1, these claims are also not anticipated by Rosch et al. Thus, Applicant respectfully requests withdrawal of this rejection.

Claim Rejections - 35 USC §103

A. Rosch et al. in view of Sauer

The rejection of Claims 4-6 and 20 under 35 U.S.C. §103(a) as being unpatentable over Rosch et al. in view of Sauer (U.S. Patent No. 5,527,300) is respectfully traversed.

As discussed above, Rosch et al. fail to disclose two or more elastomeric strands having different compositions.

Sauer discloses an absorbent article having a surge management portion with a contracting mechanism incorporated into the surge management portion. The contracting mechanism is configured to shorten a length dimension of the surge management portion. Contractible members that form the contracting mechanism can be composed of an elastomeric material in the form of strips, strands, ribbons, laminates, films, nonwovens, or foams, and may be of the chemical compositions found in natural rubber or synthetic elastomers or combinations thereof. (Col. 18, lines 8-16). Although Sauer discloses that the elastomeric strands may be composed of a combination of substances, Sauer does not disclose or suggest that the contracting mechanism include two or more elastomeric strands having compositions that differ from one another.

Contrary to the Examiner's assertion that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have different compositions for the strands since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use, the issue at hand is not the suitability of a specific material but

Serial No. 09/855,194

Docket No.: KCC-15,893

instead the concept of using two or more elastomeric strands that differ from one another in terms of composition. While Rosch et al. and Sauer both suggest various compositions that may be suitable for use as elastomeric strands, neither Rosch et al. nor Sauer disclose or suggest the concept of using two or more elastomeric strands that differ from one another in terms of composition.

As disclosed in the present application, two or more elastomeric strands having different compositions from one another can be used to form regions of different tension (Page 18, line 19 – page 19, lines 2 and 13-16). Neither Rosch et al. nor Sauer disclose or suggest elasticized regions of higher and lower tension. Thus, a person skilled in the art would not be inclined to form a laminate with strands varying in composition from one another, thereby forming regions of varying tension in the laminate, based on the teachings of Rosch et al. and Sauer.

Furthermore, a person skilled in the art would not be motivated to combine the teachings of Rosch et al. with the teachings of Sauer because Rosch et al. and Sauer are directed to entirely different applications. More particularly, Rosch et al. is directed to an elasticized top garment having a ruffle along a bottom edge, thereby resulting in minimum curl along the bottom edge. In contrast, Sauer is directed to an absorbent pant-like garment having an elasticized surge management component. It is unlikely that a person skilled in the art would combine the structure of a non-absorbent elasticized top with the structure of an elasticized absorbent component in a pant-like garment. Even if the structures of the two garments were combined, a person skilled in the art would not derive Applicant's invention from the combination thereof because neither of these references discloses or suggests a laminate including two or more elastomeric strands having different compositions from one another.

For at least the reasons given above, Applicant respectfully submits that the teachings of Rosch et al. in view of Sauer fail to disclose or suggest Applicant's claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Serial No. 09/855,194

Docket No.: KCC-15,893

B. Rosch et al. in view of Melbye et al.

The rejection of Claims 15, 16, 18, 19, and 22-26 under 35 U.S.C. §103(a) as being unpatentable over Rosch et al. in view of Melbye et al. (U.S. Patent No. 5,681,302) is respectfully traversed.

As discussed above, Rosch et al. fail to disclose or suggest two or more elastomeric strands having different compositions.

Melbye et al. disclose elastic sheet-like composites and disposable garments including such elastic sheet-like composites. The elastic sheet-like composites include one or two sheets thermally bonded directly to a multiplicity of molten, extruded elastic strands. The elastic strands are formed by extruding an elastic thermoplastic material through a die. The die plate may have varied spacing and/or diameters to provide variable tension. However, Melbye et al. fail to disclose or suggest such sheet-like composites having at least two different types of strands made from at least two different types of materials. More particularly, since the elastic strands in Melbye et al. are extruded directly from a single extruder onto the facing material, Melbye et al. teach away from the inclusion of two or more types of strands made from different elastomeric polymers.

Neither Rosch et al. nor Melbye et al., alone or in combination, disclose or suggest an elastomeric laminate including multiple strands of elastomeric material secured to an elastomeric film, wherein at least two of the elastomeric strands have compositions that are different from one another.

Because of the vast differences between the structures, methods of making, and properties of the materials in Rosch et al. and Melbye et al., is it unlikely that a person skilled in the art would be motivated to combine any aspect of these two inventions. Furthermore, because the strands in Melbye et al. are extruded from a single extruder, a completely different process would be needed to achieve the elastomeric laminate of the present invention, and Sauer et al. fail to provide any suggestion or motivation for modifying the process of Melbye et al., since Sauer et al. fail to disclose or suggest that the use of two different elastomeric strands having different compositions can be used to achieve the same effect as two different elastomeric strands having different thicknesses or different spacing between strands.

Serial No. 09/855,194

Docket No.: KCC-15,893

For at least the reasons given above, Applicant respectfully submits that the teachings of Rosch et al. in view of Melbye et al. fail to disclose or suggest Applicant's claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Applicant believes that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicant's undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,



Melanie J. Rauch
Registration No. 40,924

Pauley Petersen Kinne & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195
(847) 490-1400
FAX (847) 490-1403

KCC-1122

11

MR/S